

**401 KAR 63:005. Open burning.**

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
Department for Environmental Protection  
Division for Air Quality

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 42 USC 7401 through 7671q

STATUTORY AUTHORITY: KRS 224.10-100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the control of open burning.

**Section 1. Definitions.** Terms not defined in this section shall have the meaning given them in 401 KAR 63:001.

(1) "Garbage" means putrescible animal and vegetable matter accumulated by a family in a residence in the course of ordinary day to day living.

(2) "Household rubbish" means waste material and trash, not to include garbage, normally accumulated by a family in a residence in the course of ordinary day to day living.

(3) "Open burning" means the burning of any matter without an approved burn chamber and a stack or chimney with approved control devices.

(4) "Priority I Region" means a region classified as Priority I in 401 KAR 50:020, Appendix A.

**Section 2. Applicability.** This administrative regulation shall apply to all open burning that is not subject to another administrative regulation in 401 KAR Chapters 50 through 65.

**Section 3. Prohibition of Open Burning.** Except as provided in this section open burning is prohibited. Fires may be set for the purposes specified in this section throughout the year in any area of the Commonwealth which is not designated, or was not previously designated, moderate nonattainment for ozone pursuant to 401 KAR 51:010, if the fires do not violate KRS Chapter 149, 150, 227, other laws of the Commonwealth of Kentucky, or local ordinances. Purposes for which open burning is allowed are:

- (1) Fires set for the cooking of food for human consumption;
- (2) Fires set for recreational or ceremonial purposes;
- (3) Small fires set by construction and other workers for comfort heating purposes if excessive or unusual smoke is not created;
- (4) Fires set for the purpose of weed abatement, disease, and pest prevention;
- (5) Fires set for prevention of a fire hazard, including the disposal of dangerous materials if no safe alternative is available;
- (6) Fires set for the purpose of bona fide instruction and training of public and industrial employees in the methods of fighting fires;
- (7) Fires set for recognized agricultural, silvicultural, range, and wildlife management practices;
- (8) Fires set by individual home owners for burning of leaves except in cities greater than 8,000 population located in a Priority I Region;
- (9) Fires set for disposal of household rubbish, not to include garbage, originating at dwellings of five (5) family units or less, if the fires are maintained by an occupant of the dwelling at the dwelling, except in cities greater than 8,000 population located in a Priority I Region;
- (10) Fires set for the purpose of disposing of accidental spills or leaks of crude oil, petroleum products or other organic materials, and the disposal of absorbent material used in their removal, if no other economically feasible means of disposal is available and practical. Permission shall be obtained from the cabinet prior to burning;
- (11) Fires set for disposal of natural growth for land clearing, and trees and tree limbs felled by storms, if no extraneous materials such as tires or heavy oil which tend to produce dense smoke are used to cause ignition or aid combustion and the burning is done on days when conditions do not pose a threat of igniting a forest fire. In regions classified Priority I with respect to

particulate matter pursuant to 401 KAR 50:020, Appendix A, the emissions from such fires shall not be equal to or greater than forty (40) percent opacity.

(12) Heating ropes that are set on fire to repair steel rails during cold weather.

**Section 4. Additional Restrictions for Ozone Nonattainment Areas and Areas Previously Designated Nonattainment for Ozone.** For those areas which are, or were previously, designated moderate nonattainment for ozone pursuant to 401 KAR 51:010, fires may be set according to the provisions of Section 3 of this administrative regulation except during the months of May, June, July, August, and September. During these months, the only open burning activities allowed are:

- (1) Fires set for the cooking of food for human consumption;
- (2) Fires set for prevention of a fire hazard, including disposal of dangerous materials if no safe alternative is available;
- (3) Fires set for the purpose of bona fide instruction and training of public and industrial employees in the methods of fighting fires;
- (4) Fires set for recognized agricultural, silvicultural, range, and wildlife management practices;
- (5) Fires set for the purpose of disposing of accidental spills or leaks of crude oil, petroleum products or other organic materials, and the disposal of absorbent material used in their removal, if no other economically feasible means of disposal is available and practical. Permission shall be obtained from the cabinet prior to burning; and
- (6) Fires set for recreational or ceremonial purposes.

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